

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

JOSEPH E. BENNETT,

Petitioner,

CASE NO. 2:07-cv-293

JUDGE MARBLEY

MAGISTRATE JUDGE KING

v.

CLIFFORD SMITH, Warden,

Respondent.

OPINION AND ORDER

On February 7, 2008, the Magistrate Judge issued a *Report and Recommendation* recommending that respondent's motion to dismiss be denied and that respondent be directed to file a supplemental return of writ that complies with Rule 5 of the Rules Governing Section 2254 Cases in the United States District Courts, which includes documentation regarding any further state court action initiated by petitioner in this case. Although the parties were explicitly advised of the right to object to the Magistrate Judge's *Report and Recommendation*, and of the consequences of failing to do so, no objections have been filed.

The *Report and Recommendation* is **ADOPTED** and **AFFIRMED**. Respondent's motion to dismiss is **DENIED**. Respondent is **DIRECTED** to file, within twenty (20) days, a supplemental return of writ that complies with Rule 5 of the Rules Governing Section 2254 Cases in the United States District Courts and which includes documentation regarding any further state court action initiated by petitioner in this case.

IT IS SO ORDERED.

Algenon L. Marbley
ALGENON L. MARBLEY
United States District Judge